



PART 4: Last Part -Motions per Rule G and rule 12

Alex Kapolchok

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10/30/2015 12:19 PM

Cc:

"Orenstein, Karin (USANYE)"

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From: Alex Kapolchok <Alex@kapolchoklawservices.com>

To: "ellen_mulqueen@nyed.uscourts.gov" <ellen_mulqueen@nyed.uscourts.gov>,

Cc: "Orenstein, Karin (USANYE)" <Karin.Orenstein@usdoj.gov>

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9 Attachments



Motion to Filed Unfiled Forfeited Items.jpg



Motion to file Part 2.jpg



Motion to Dismiss the Action.jpg



Motion to Dismiss Part 2.jpg



Motion to Release Property.jpg



Motion to Suppress Evidence.jpg



Conclusion Part 1.jpg



Conclusion Part 2.jpg



Conclusion Part 3.jpg

See attached

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JOHN 8:32 And You shall know the truth and the truth
shall set you free

From: Pastor D

Sent: Thursday, October 29, 2015 1:20 AM

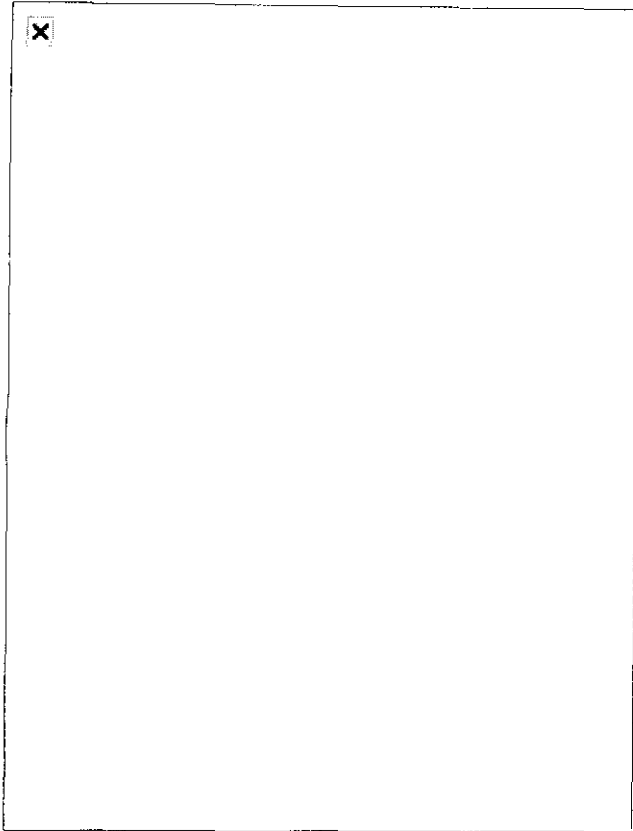
To: Pastor D; Alex Kapolchok

Subject: Last Part -Motions per Rule G and rule 12

THE MINISTRY OF JUSTICE

- Legal Strategy;
- Case Management;

- Investigative Journalism;
- Ministerial Services;
- Treasury.



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LUKE 8:17 For nothing is hidden that will not become evident, nor anything secret that will not be known and come to light.

Motion to File Unfiled Forfeited Items **with the Court**

On August 29 2014, Items were illegally forfeited from their legitimate owner Reverend Doris Yembe
which included:

- 1-2 Laptops
- 2-3 cell phones
- 3-11 Miscellaneous documents
- 4-Porsche Boxster sport 2013
- 5-Porsche Cayenne Sport 2014
- 6-50 000 Pro Balance Stocks
- 7-15 207\$ cash funds held citibank
- 8-2840 S Ocean Boulevard unit 209

A malicious prosecution criminal case started with no probable cause, no evidence
no mens rea which is why in turn, such frivolous case was dismissed.

For 14 months said case was conducted by conscience avoidance with no indictment, exceeded
the 30 days
decay to do so, for which on June 29th 2015, Ms. Yembe got dismissed as Co-Counsel.

During above said case, 2 private investigators were hired, one by the court, one as pro bono
by Ms.Yembe along with a pro bono civil attorney and a voluntary advisor from
Prosecutor and current Defense attorney Robert Larusso.

With the team, Ms.Yembe, collected several irrefutable data which will be supported in support
to today's request.

On July 9 2015, special agent Richard Delisio agreed to meet Rev.Yembe to return Items 1 to 3
but then,he not only lied to her but also threatened her and mocked her by stating that she would
not
obtain her porsche and recover her valuable assets due to the fact that Homeland Security
and AUSA Orenstein had plotted to do so.

He then told her that she was crazy and that the case was dismissed because the Government
did no longer want to deal
with her crazy and insane self, she replied it was foolishness as she was not in a string jacket, nor

would
of been co-counsel, never indicted or deported, she advised that ignorance was a bliss,
corruption
obvious and justice deserved.

Homeland Security in collaboration with ORENSTEIN have used the term" administrative
proceeding"
to keep her assets without releasing them to Ms.Yembe or the court.

They released Items 1 to 3 above listed and kept 4 to 8 maliciously within their hidden agenda.
Their Alibi of such "administrative procedure" has been covered by their mule,a paralegal
supposedly in charge of the forfeiture case within Homeland Security
Maurice Mcelligott.

Therefore, the defense request for proper filing to be done according to the law and forfeiture
proceedings
applicable, unfilled items shall be filed before the court

- Porsche Boxter 2013
- Porsche Cayenne 2014
- CitiBank seized account

The same way the condominium and stocks were files since they were all seized the same day
the same way,
there is no valid or legal way to justify not doing so, releasing some items,hiding a few, and filing a
few.

Let a spade be a spade.

See attached recording in support of evidence of above factual allegations made by Ms.Yembe.

-Motion to Dismiss the Action-

Rule (G)(l)

Rule 12 (b)

As per Judge Jed S. Rakoff in the Article " Why Innocent people plead guilty "

In 2013 8% of the Federal charges were dismissed for mistake of the law.
In 1980, One thing had become quickly apparent 19% of all federal defendants went to trial, by 2000 the number had decreased to less than 6% and by 2010 less than 3 percent the reason for this is that the guidelines, like mandatory minimums provide prosecutors with weapons to bludgeon defendants into effectively coerced plea bargains.

In the majority of cases, a defense lawyer when or shortly after the client is arrested, at the outset, is at CONSIDERABLE DISADVANTAGE to the prosecutor

" though there are many variations on this theme, they all prove the same basic point, the prosecutor has all the power"

It's a total myth, it is much more like a contract of adhesion in which one party, can effectively FORCE ITS WILL on the other party.

In correlation with the Factual Memorandum, since it's a very similar legal setting, as far as plea bargains are concerned, the Non- Prosecution agreement offered to Ms.Yembe was the will imposed by the prosecution on Ms.Yembe

The reality is that the prosecution was prepared to obtain her assets at any cost , by any means possible, which is why so many lies have come to the light, thankfully, By God's grace, Ms.Yembe was strong enough to resist and survive long enough to collect all evidence and expose the truth.

Th civil matter has carried on as a backup plan for the failed criminal case.

AUSA Nasson, stated on court record that the Asset matter would be resolved by a NPA however, that was only looking at the prosecution interest, and his lies resulted in him having to make an oath

in order to ensure that any violation would have a severe legal sanction.

The Action shall be dismissed for the following reasons:

- 1) Ethical Violations (ABA MODEL)
- 2) Malicious Prosecution (see Factual Memorandum and evidentiary exhibits)
- 3) Lack of suitable and irrefutable evidence

Motion to Release Property

Rule (G)(D)(I)

The prosecution lacks standing as the funds obtained to purchase were legitimate from a corporation that was legally registered and operating within the united states in good standing at the time of the transaction.

Dissatisfied clients, false accusations and unresolved litigations does not support nor equate to a proper ground for such a forfeiture case to be valid in any way, shape or form.

Otherwise, Mcdonald's, Wal Mart and Chase Bank would of been bankrupted by now!

I therefore request on behalf of the defense for

The 2840 S Ocean Boulevard Unit 209 , and parking space 166 to be released
the 50 000 pro balance stocks to be released

And the case to be closed.

Motion to Suppress Evidence

Rule G (8)(A)

RULE 41 was breached according to its requirement pertaining to searches and seizures, Ms. Yembe was not provided the opportunity to assess the legality of such procedures.

Due Process rights were not observed, and violations occurred,

The warrants were never showed, as required by law, they were rather obtained on the first hearing before Judge Dearie.

Furthermore, Rule 41 stipulates that besides serving a warrant, proper documentation concerning each item seized shall be provided to the defendant which likewise was not observed.

No arrest warrant, nor search or seizure warrant was presented and this is a civil code violation.

Furthermore, the CFRA form provided by Orenstein by the interim of Homeland Security implied a 30 day waiver to start any forfeiture proceeding which all were never respected, acknowledges as I exposed with evidence in the Exhibit 3.

Which supposes that such documentation were only submitted as a means of paper trail to cover the lies exposed in all evidentiary exhibits as well as the factual memorandum.

Without probable cause, factual irrefutable evidence, mens reas but rather lies on top of lies exposed by the defense with valid and verifiable evidence, no mens rea can be established to support the pending civil proceedings..

We request for the evidence to be suppressed:

50,000 stocks Pro Balance
2840 S Ocean boulevard unit 209 property and parking space with
all associated pending liens.

CONCLUSION

Dear Judge Dearie,

It is with respect, exhaustion and trauma that I am writing this today, and I have learned that honesty and transparency is the best policy.

I know that if you are a Judge and former AUSA, you must be a smart man, with great strategic thinking, I also know that if you are a Judge now, you are called to look beyond accusations to see the light, to see the truth.

Lastly, being you have been on both side of the fence, there are data that I don't need to supply to you for you to know what I really mean and am referring to.

Let's not even go there!

I understand this is no hospital, nor a charity or humanitarian place rather a courtroom however, all these matters are correlated when we speak about my case.

My case has been multi layered and very complexe mostly because people made it harder than it needed to be.

I know that being a young , black woman, of 23 years old at the time of the case started a self made millionaire makes a lot of people angry , bitter, racist and jealous, people may not like to see this black and white but look around you, around the world, but it's simply the truth.

But the reality is, when I was 15 I was victim of my first sexual abuse when my parents divorced, and I have not been normal since, I have never and will never be the same, at 18 I endured incest after a traumatic abortion.

I grew up in a violent, emotionally abusive home, my mother had 3 jobs and my father was adulterous, when they divorced my mother had to pay attorneys because he wanted to steal her house and all her hard work just like the US Government is doing to me now.

It's almost funny to see the "like mother like daughter scenario "but besides the matter, I had to pick up strawberries and raspberry for less than 5 \$ an hour in the fields on rainy days,

sunny days at

15 years old to pay for school material for me and my sister because my mother could not afford it and my father was no longer in our life.

My friends spent summers having fun, I spent mine slaving on my knees to survive in Canada living like in a third world country.

I drove used cars that broke down in cold Canadian winters and got fired from several jobs because I didn't make it to work on time because of my cheap cars that broke down on me from 2007 to 2010.

I was not born rich, I worked hard, studied at the best Canadian schools, worked 19 hours days even on Sundays for 5 years straight to make it to where I was.

I may have not been the best business executive, but I am definitely not the worst, I may have not done all I had to do but I did it with my mind and heart, I never stole from my clients, because I cared about them, and worked pretty damn hard to get them.

My personal assistant was so jealous of me, that she turned my entire business against me, stole 136,000.00 from me being she was the closest person to me, meanwhile, I tried to help her build a career and she spat on my face.

Yes, I am responsible for the staff I chose, the clients I chose and the decision I made, yes, but I was never a criminal that is why I was acquitted, and I ask for you to drop this case, and to restore all my assets including those that were not properly filed. (I know you know why there weren't)

Not because you are doing me a favor, but because you are a fair judge, and the best judges they work for justice.

I am exhausted, I am traumatized by my life, by prison, and I just can't carry on, I just simply cannot!

I deserve to be compensated, but what will happen With this corrupted system, who is going to help me?

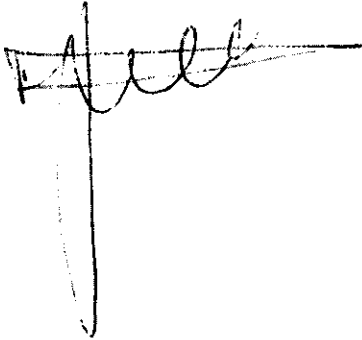
I don't want to give up but what are my options?

I need peace in my life, I need to sleep, I need to deal with my health, with my finance, with my relationship and my life.

Please end this.

Cordially.

Reverend Doris Henriette Yembe

A handwritten signature in black ink, appearing to read "Doris Yembe", with a long vertical line extending downwards from the end of the signature.